

Amending Title 2, Chapter 18 of the Minneapolis Code of Ordinances relating to Administration: Purchasing.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Chapter 18 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 18.200 to read as follows:

18.200. Equal Benefits Provisions in Contracts. (a) The City of Minneapolis recognizes that a nationwide debate has advanced an expanded concept of familial relationships beyond traditional, marital relationships. This expanded concept includes relationships between two (2) non-married, adult partners of the same sex who are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities. The City of Minneapolis also recognizes that it annually enters into numerous contracts for the purchase of goods and services. Requiring contractors to provide to employees with domestic partners benefits equal to those provided to employees who are married will require contractors to maintain a competitive advantage in recruiting and retaining the highest quality work force, thereby improving the quality of goods and services that the city receives. The City of Minneapolis has a fiscal responsibility to ensure that it purchases the best quality goods and services possible within its budgetary constraints. To ensure that the City of Minneapolis receives improved quality of goods and services, the functions of the purchasing agent are expanded as provided in this section.

(b) In addition to the functions described in this chapter, the purchasing agent for the city must do the following:

- (1) Require that notice of the requirements of this section be provided in every request for proposal and bid specification, whether involving goods or services.
- (2) Require that, unless an exception is granted by the city council pursuant to subsection (g), every contract include a provision that the contractor will comply with this section.

(c) For purposes of this section, the following definitions apply:

Cash equivalent. The cash equivalent of the following benefits apply:

- a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
- b. For disability insurance, life insurance, health benefits, and dental benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a monthly basis while the domestic partner employee maintains such insurance in force for himself or herself.

- c. For a membership, the cost to the contractor of the membership fee normally paid for a spouse, as long as the domestic partner employee would have been provided such membership payments if the domestic partner employee would have had a spouse.
- d. For moving expenses and travel expenses, expenses that would have been paid to the domestic partner employee if the domestic partner of the employee were a spouse.

Contract. An agreement which is estimated to exceed one hundred thousand dollars (\$100,000.00) for personal services; for the sale or purchase of supplies, materials, equipment or the rental thereof; or for the construction, alteration, repair or maintenance of real or personal property. Contract does not include development contracts.

Contractor. Any individual, corporation, partnership, association, nonprofit organization, groups of persons, organization, company, firm, limited liability company, joint venture, enterprise, or any other legal or commercial entity, or combination thereof, which enters into a contract with the city, and which maintains twenty-one (21) or more employees on the payroll during twenty (20) or more calendar workweeks in either the current or the preceding calendar year. Workweeks include consecutive and nonconsecutive workweeks.

Domestic Partner.

- a. Any person who has a currently registered same-sex domestic partnership with a governmental body pursuant to state, local, or other law authorizing such registration. The term domestic partnership should be construed broadly to include same-sex civil unions or other such same-sex unions in which two (2) same-sex individuals are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities; or
- b. Unless otherwise provided by state, local or other applicable law authorizing the registration of same-sex domestic partnerships, a person who is in a same-sex domestic partnership, which consists of two (2) adults of the same sex who:
 - 1. Are not related by blood closer than permitted under marriage laws of the state.
 - 2. Are not married.
 - 3. Are competent to enter into a contract.
 - 4. Are jointly responsible to each other for the necessities of life.
 - 5. Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities.
 - 6. Do not have any other domestic partner(s).

Employee. An individual who performs services for compensation for an average of at least thirty-two (32) hours per week. Employee does not include independent contractors.

Employee benefits. Unless otherwise prohibited by state, federal or other law, bereavement leave, disability insurance, life insurance, health benefits, dental benefits, memberships, moving expenses, and travel benefits provided to employees of the contractor.

Registry. A system or mechanism for the recognition of, at a minimum, domestic partners during the term of the contract.

Religious or denominational educational institution. An educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church through church representation on the board of the institution and through substantial church financial assistance to the institution; and further includes any agent or employee of such an institution.

Religious or denominational organization. Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection 26 U.S.C. § 501(h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Subcontractor. Any individual, corporation, partnership, association, nonprofit organization, groups of persons, organization, company, firm, limited liability company, joint venture, enterprise, or any other legal or commercial entity, or combination thereof, which enters into a contract with a contractor, and which maintains twenty-one (21) or more employees on the payroll during twenty (20) or more calendar workweeks in either the current or the preceding calendar year. Workweeks include consecutive and nonconsecutive workweeks.

(d) No contractor shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. Any employee benefit provided in any manner contingent upon the existence of a marital relationship must also be provided to an employee who has a domestic partner. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to a domestic partner, so long as the contractor provides the employee with a cash equivalent of such a benefit.

(e) The provisions of subsection (d) do not apply when the City of Minneapolis is purchasing through a cooperative or joint purchasing agreement.

(f) A contractor is not required to comply with subsection (d) if the contractor meets one of the following criteria:

- (1) The contractor allows every employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits.
- (2) The contractor maintains a registry from the execution of the contract to the completion of the contract. The maintenance of this registry shall include notice to employees of:
 - a. The existence of such a registry.
 - b. The requirements to be placed on the registry.
 - c. The requirements to be removed from such a registry.

- d. The possibility of the extension of benefits to domestic partners of employees during the duration of any contract. However, upon request of an employee, the employee will be placed on the registry and will be provided equal benefits pursuant to subsection (d).
- (3) The contractor provides benefits neither to employees' spouses nor to employees' domestic partners.
- (4) The contractor cannot comply with the requirements of subsection (d) because those requirements are inconsistent with a grant or agreement with a public agency.
- (5) The contractor is a religious or denominational educational institution.
- (6) The contractor is a religious or denominational organization.
- (7) The contractor is a governmental entity.
- (g) The city council may grant exceptions to the requirements of subsection (d) where:
 - (1) Award of a contract or amendment to a contract is necessary to respond to an emergency, where the existence of an emergency is determined by the city council. In determining whether there is an emergency, the city council may consider the following nonexclusive factors: the nature of the contract; the length of the contract; the cost of the contract; whether grants are involved in the contract and the requirements of those grants; whether there is a need to have materials and goods furnished immediately and the consequences of a delay in having those materials and goods furnished; the monetary consequences if action is not taken immediately; any safety issues that may be involved; the consequences on labor, increased labor costs, and scheduling of labor; the need to complete work before a strike deadline; and the impact of delaying one phase or portion of a project on the other phase(s) or portion(s) of the project.
 - (2) The city council considers the following nonexclusive factors and determines that an exception is in the best interests of the City of Minneapolis:
 - a. The original contract was for one hundred thousand dollars (\$100,000.00) or less, amendments to the original contract have been made, and the amended contract exceeds one hundred thousand dollars (\$100,000.00).
 - b. Bids are received, the bids demonstrate that none of the bidders will comply with this section, and one (1) or more of the bids would have been responsive if compliance with this section would not have been listed as a requirement in the bid specification. Under this circumstance, the city could then rebid and delete the bid specification of complying with this section in the rebid.
 - c. A request for proposal is requesting unique services that can only be reasonably provided by one (1) contractor.
 - d. There is only one (1) bidder.
 - e. Only one (1) proposal is submitted to a request for proposal.

f. After a comparison between personal services proposals in which contractors would comply with this section with personal services proposals in which contractors would not comply with this section, the city council determines that the City of Minneapolis would gain a substantial cost savings by awarding a personal services contract to a contractor that will not comply with this section.

(h) Decisions by the city council to grant exceptions to the requirements of (d) are final.

(i) This section shall only apply to those portions of a contractor's operations that occur:

(1) Within the City of Minneapolis.

(2) On real property outside of the City of Minneapolis if the property is owned by the City of Minneapolis or if the City of Minneapolis has a right to occupy the property, and if the contractor's presence at that location is connected to a contract.

(3) Elsewhere in the United States where work related to a contract is being performed.

(j) The requirements of this section shall only apply during the duration of the contract.

(k) Except for subsection (l), all requirements of this section that apply to contractors shall also apply to subcontractors.

(l) The contractor will include the provisions of section 18.200 in every subcontract, specifically or by reference, so that such provisions will be binding upon each subcontractor.

(m) Because of its experience with the enforcement of other contractual requirements, and to avoid administrative costs of implementing a new enforcement unit, the Minneapolis Department of Civil Rights shall enforce the provisions of this section pursuant to all of its enforcement powers under Title 7 of this Code.

Section 2. That the Minneapolis Code of Ordinances be amended by adding thereto a new Section 18.210 to read as follows:

18.210. Effective date. That section 18.200 becomes effective January 1, 2004.